Conference Planning

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INTRODUCTION

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Background

- Army: 1990 – 2003
- ANG: 2003 – present
- Ethics/Fiscal: 2002 – present

CONFERENCE PLANNING

Purpose

Discuss the fiscal and contracting rules for conferences and how to review letters of intent

References

- Statutes
  - 5 USC §§ 4101, et seq., Government Employees Training Act
  - 10 USC § 2262, Department of Defense Conferences: Collection of Fees to Cover DoD Costs
  - 31 USC §1301, Purpose Statute
  - 31 USC §3302, Miscellaneous Receipts

References

- Other sources
  - Latest GAO opinions
    - NIH B-300826, 3 March 2005
    - NIH Redux (Mikulski), 4 January 2006
  - Principles of Federal Appropriations Law, volume 1, chapter 4, pages 4-29 and 4-88.
  - JTR/JFTR
  - GSA Memorandum on Co-sponsorships, 25 April 2003

References

- Other Sources (cont.)
  - AFI 65-601, Budget Guidance and Procedures, volume 1, December 24, 2002, paragraph 4.42
  - DA Policy Letter, dated March 6, 2003
  - DoD/Army/AF policy memoranda
  - OCPL Number 22, NGB-AQC, Contract Support for Conferences

Common Issues

- Folks contracting for facilities without Contracting shop
- Set up unauthorized bank account to take money in and pay it out
- Soliciting gifts from vendors
- Purpose violations
- Use of contractors to “launder” problems

Food – General Rules

- Appropriated Funds may NOT be used to provide free food to government employees
- Government employees on travel orders are provided a per diem allowance designed to offset the cost of meals
- Ethics principles - good stewards of government resources.
- We are not the corporate world!!!

Food – Formal Conference

- Exception to the general rules: NIH
- May provide food and/or light refreshments at “formal conference” if the following three-part test is satisfied:

Food – Formal Conference

- Three-part Test:
  - Meals and refreshments incidental to the conference
  - attendance at the meals and when refreshments are provided is important for the host agency to ensure full participation in essential discussions, lectures, or speeches concerning the purpose of the conference, and
  - the meals and refreshments are part of a formal conference that includes not just the meals and refreshments and discussions, speeches, or other business that may take place when the meals and refreshments are served, but also includes substantial functions occurring separately from when the food is served.

Food – Formal Conference

- Does not authorize payment of meals in connection with internal business meetings or conferences sponsored by government agencies primarily involved with day-to-day activities
- Applies to formal conferences sponsored by, of general interest to, or also attended by non-government participants

Food – Formal Conference

- Limitations
  - Attendance MUST be mandatory for ALL attendees
  - Appropriated funds may pay for non-Federal employees who attend conference
  - May only pay for meals actually consumed
  - Attendees may not receive a benefit
  - Attendees must reflect meal on travel voucher

Army Policy

- HQDA Memorandum dated March 6, 2003
  - "The cost to the Government for light refreshments supplied by conference hosts is often disproportionate to the value received. All officers and employees should be good stewards of the Government's resources."
  - Sanity check

Conference Fees
Formal Conference

- NIH: Collecting conference fees as government employee and not depositing in general treasury a violation of 31 USC 3302(b) (Miscellaneous Receipts)
- NIH Redux: “Yes, we meant what we said the first time. Shut your cake hole.”
- Congress acts (more later)

Conference Fees
Formal Conference

- What are “conference fees?”
  - Room rental
  - A/V costs
  - Light refreshments/meals
  - Speaker fees
  - Others

Conference Fees
Formal Conference

- Answer-Agency pays for all costs
  - DoD GC has said that conference facility charging attendees pro-rata share of expenses is an improper augmentation
  - Cannot use contractor to circumvent this problem either.

Training

- “Training” Has specific definition
- Authorized to share costs
- Questionable applicability to military personnel
- Must be “government-to-government” transfer (MIPR, GPC)

Social Events

- No Authority to Expend Appropriated Funds for Social Events
  - May not be included in a reimbursable conference fee
  - May not be included in a contract
  - No reimbursement on travel voucher
  - May NOT be a mandatory fee

Social Events

- Narrow Exception for non-government sponsored event if meets the three part test
  - Fee must be mandatory
  - Social events must be included in fee
  - Social event must be non-separable from fee

Gifts and Tokens

- Appropriated funds may not be used for a personal expense
- Novelty items (calendars, tote bags, canvas binders) are not an authorized expense. *Expenditures by Department of VA Medical Center, Oklahoma City, OK*, B-247563.3, April 5, 1996

Honoraria

- Payment of fees limited to $500 for speakers, lecturers and panelists. DoD Policy Memo dated 5 January 1995
- Policy based on belief that DoD must assure that excessive fees are not paid
  - Excessive honorariums paid in the past
  - Payments evoke criticism from Congress, press and public
  - Inconsistent with policy to reduce costs throughout DOD
  - NGB-JA opinion - modest gift for non-government speaker meets necessary expense test.

Honoraria

- Waivers must be approved by next higher echelon
  - Army – Office of General Counsel
  - Air Force - AFI 65-601, vol 1, para 4.9
    - $500-$2000 – MAJCOM/DRU/FOA commanders
    - $2000 or more – HQ USAF/CVA

Vendors

- Must determine whether vendors are required (necessary expense vs. bona fide need)
- Must pay for costs properly allocable to government
- Must be impartial in getting vendors to attend
- Gift problems
- Solicitation

Reviewing Letters of Intent

- Improper Clauses included in standard hotel contracts
  - Indemnification Clauses
  - Cancellation Fees
- If food is included, review carefully
- Complimentary rooms and/or services
  - No authority to provide individuals a free room based on position
  - Use for benefit of entire conference
- May not obligate the government to any expenditure of funds unless signed by a contracting officer

On the Horizon - Fee Collection

- National Defense Authorization Act for FY07 authorized DoD to accept conference fees from any individual or commercial participant
- Fees can be credited to the appropriation or account from which the costs of the conference are paid.
- Excess collections deposited as miscellaneous receipts
- Reports required to Congress each year. The reports include costs to the department (including costs of conference planners), amounts collected, and projected

On the Horizon - Fee Collection

- Implementation date is unknown
- Air and Army Guard implementation may be different
- Co-sponsorship dead
- Stay tuned!!

Conclusion

- Conference planning rules closely tied to fiscal law principles
- Area is and will remain dynamic in the near future
- Paradigm may change shortly
- Remember Ethical considerations as well - stewardship of resources

Questions ?